

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 1383 of 1996

in

SPECIAL CIVIL APPLICATION No 252 of 1984

with

CIVIL APPLICATION NO. 11177 OF 1996

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL and

MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

MAKBULALI AKBERALI

Versus

STATE OF GUJARAT

Appearance:

MR IS SUPEHIA for Petitioner

CORAM : MR.JUSTICE B.C.PATEL and

MR.JUSTICE M.S.SHAH

Date of decision: 04/02/97

ORAL JUDGEMENT

The appellant, a dismissed police constable, has preferred this appeal against the order passed by learned Single Judge on 4.7.1996 in Spl. C.A.No. 252 of 1984.

2. The appellant came to be dismissed, vide Annexure 'A' dated 29.7.1975, after having been found guilty in a departmental inquiry on charge of accepting illegal gratification. The writ petition has been filed on 24.8.1983, i.e. after about eight years. The Learned single Judge has also observed that the order of dismissal was appealable but the petitioner did not avail of the remedy under the Rules. No explanation has been furnished, as observed by the learned single Judge, about the delay in filing the petition.

3. It is further required to be noted that the order of penalty is not challenged on merits, but the petitioner has come out with a case that he was appointed by the Commissioner of Police but the penalty order is passed by a Deputy Commissioner of Police. The petitioner has not produced the letter of appointment, and the learned single Judge has observed that it is for the petitioner to establish that he was appointed by the Commissioner of Police. We have perused the record produced before us. It is pointed out by the respondent in the affidavit in reply that the petitioner was appointed on 4.11.1971 by the Deputy Commissioner of Police. The learned Single Judge has also observed that each case is to be decided on its own merits, and reliance on the decision in respect of some other employees is not relevant.

4. We have heard Mr. Supehia at length. We have also considered the documents produced by the appellant. We do not find any reason to interfere with the judgment passed by the learned Single Judge. This appeal is, therefore, dismissed.

5. In the result, there will be no orders on the Civil Application.

csm./ -----